IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 7285 of 1995

Between:

K.Sreenivasa Rao S/o.late Seetharamaiah
6-1-40, Bonalavari Veedhi Bhadrachalam
Khammam Dist

..... PETITIONER

AND

1 The Project Officer, Intigrated Tribal Dev. Agency
Bhadrachalam Khammam Dist
2 The Director of Tribal Welfare Govt. of Andhra Pradesh
Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction preferably a writ of mandamus declaring the orders of the 1st respondent Rc.No.A1/4009/91, Dt.27/4/1992 and Rc.No.A1/1584/94, Dt.2/4/1995 as illegal, arbitrary and violates the principles of natural justice and contrary to the procedings of the second respondent Dt.28/5/1994 and consequently direct the respondent to re-instate the petitioner with all consequential benefits.

Counsel for the Petitioner:MR.K.VINAYA KUMAR

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following :

ORDER

In this Writ Petition, the petitioner by way of writ of mandamus seeks to assail the orders passed by the 1st respondent dated 27-4-1992 and 2-4-1995.

The case of the petitioner in brief is that he was appointed as Attender in 1st respondent's organization pursuant to the proceedings dated 28-9-1988 issued by the 1st respondent on compassionate grounds . While so due to ill-health he applied for leave on medical grounds. As his leave was not accepted by the authorities, he compelled to report for duty and again due to ill-health he was forced to go on leave. But the 1st respondent issued proceedings dated 27-4-1992 terminating his services on the ground of unauthorized absence from 1-11-1991 to 29-2-1992 without issuing any show cause notice or without conducting any regular enquiry. It is the further case of the petitioner that thereafter he submitted a representation to the 2nd respondent who in turn issued proceedings dated 28-5-1994 stating that the appointment of the petitioner is almost regular one and removing the petitioner from service without conducting regular enquiry is not correct and directed the 1st respondent to re-instate the petitioner into service . But in spite of the same, the 1st respondent issued proceedings dated 2-4-1995 confirming the earlier termination order. Hence the Writ Petition.

No counter affidavit is filed by the respondents resisting the

averments of the petition.

Heard both counsel and perused the entire material available on record.

It is evident from the record that the petitioner was appointed as Attender and due to ill-health he was forced to apply for leave from1-11-1991 to 29-2-1992. The 1st respondent rejected his leave application and directed him to report for duty and as the petitioner did not report himself for duty, charges were framed and the petitioner was terminated from service pursuant to the proceedings dated 27-4-1992 treating the petitioner as a temporary attender. But on the representation of the petitioner, the 2nd respondent issued proceedings dated 28-5-1994 directing the 1st respondent to consider to re-instate the petitioner into service as his appointment was issued on compassionate grounds which is regular one. Therefore removing the petitioner from service is not proper without issuing any show cause notice or without conducting any regular enquiry. On this ground alone, in view of the above circumstances, the impugned orders passed by the 1st respondent dated 27-4-1992 is set aside.

Accordingly, the Writ Petition is allowed to that extent. No order as to costs.

23-09-2004.

Hsd

Assistant Registrar

// true copy //

Section Officer

That Rule Nisi has made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on the Thursday, the Twenty Third day of September, 2004.

Registrar

To

1 The Project Officer, Intigrated Tribal Dev. Agency
Bhadrachalam Khammam Dist
2 The Director of Tribal Welfare Govt. of Andhra Pradesh
Hyderabad

3 2 CCs to G.P. for Social Welfare, High Court Buildings,Hyderabad (out)

4 2 C.D. copies